



Portland District MED NEWS July 2001

Contracting and the 8(a) Program

The Minority Enterprise Development staff extends its appreciation to the participating procuring agencies for their continued support of the 8(a) Program. While the Memorandum of Understanding (MOU) procedure makes it easier for the 8(a) contractors and the procuring agencies to negotiate contracts, we want to reinforce that SBA is still here to help with negotiations or potential contracting issues arising in the field. We're just a call away!

It is, however, time to ask for your help. Under the MOU procedures it is not required that SBA be notified of acquisitions under \$100,000 (no offer, no acceptance), but SBA is to receive a copies of all executed contracts, modifications and delivery/task orders. Therefore, we ask that you put SBA on your regular distribution list for all 8(a) contracts.

We all know that throughout the years many changes have been made regarding the 8(a) Program, and there will be more in the future. One of the changes needs some clarification. It involves local buy vs. national buy and where 8(a) contractors can market their businesses. We have received questions regarding this issue from both our 8(a) contractors and from procurement officials. The regulations are pretty clear when it comes to manufacturing and service businesses, which are considered "national buy." However, for construction businesses, which are considered "local buy," the rules are more complicated and are explained below.

Sole Source Requirements: For sole source requirements offered on behalf of a particular 8(a) firm, the offer is made to the SBA district office that services that firm. The firm can be located in any SBA district office jurisdiction. On the other hand, if the offer is an open

construction requirement (no specific 8(a) firm named), the requirement must be offered to the SBA district office servicing the geographical area in which the procuring activity is located.

The rules allow construction 8(a) firms to market in any state. If a procuring agency wants to do business with a specific 8(a) business, it sends an offering letter name requesting that firm to the office that services the business. Construction 8(a) firms must keep in mind the cost of doing business in other states. Ultimately, the negotiated price must be fair and reasonable to both the 8(a) contractor and the government.

8(a) Competitive Requirements: If the requirement is offered for 8(a) competition, the offer is sent to the SBA district office serving the geographical area in which the work is to be performed. Only 8(a) firms with bona fide places of businesses within the geographical area determined by the SBA are eligible to submit bids/offers.



MENTOR-PROTÉGÉ AGREEMENTS & JOINT VENTURE AGREEMENTS

The SBA's mentor-protégé and joint venture programs encourage private sector relationships and broaden the agency's efforts to address the developmental needs of clients in the 8(a) Business Development program.

Mentor-Protégé Program

The 8(a) mentor-protégé program helps participants tap into the expertise and capital of 8(a) graduates and other businesses. Additionally, protégés can receive:

- Technical and management assistance,

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- Subcontracting support,
- Help in bidding on prime contracts through joint venture arrangements, and
- Financial assistance in the form of equity or loans.

Mentors can own an equity interest of up to 40 percent in a protégé business to help it raise capital.

To qualify as a protégé an 8(a) business must:

- Be in the developmental stage of 8(a) program participation; or
- Have never received an 8(a) contract; or
- Be less than half the size standard corresponding to its primary NAICS code.

Additionally, the protégé business must be in good standing in the 8(a) program and be current with all reporting requirements. Protégés may usually have only one mentor at a time. Mentors can be businesses that have graduated from the 8(a) program, businesses in the transitional stage of the program, or other small or large businesses. Mentors must also:

- Be able to help the protégé through lessons learned and practical experience gained from the 8(a) program, or through general knowledge of government contracting;
- Make a commitment for at least a year;
- Possess favorable financial health; and
- Be in good standing with the program and/or federal contracting requirements.

Generally, a mentor cannot have more than one protégé at a time without SBA authorization.

Mentor and protégé companies enter into an SBA-approved written agreement outlining the protégé's needs and describing the assistance the mentor will provide. The protégé's servicing SBA office evaluates and approves the agreement. The SBA conducts annual reviews to determine the success of the mentor-protégé relationship.

8(a) Joint Venturing

Businesses in the 8(a) BD program may form joint ventures to bid on 8(a) and non-8(a)

contracts. This enables participants to perform larger prime contracts and overcome the effects of contract bundling – the practice of combining two or more contracts together into one large contract. Bundled contracts are often too large for small businesses to perform.

If approved by SBA, a participant may enter into a joint venture with one or more other small businesses, whether or not 8(a) participants, for the purpose of performing a specific 8(a) contract. A joint venture is permissible only where an 8(a) concern lacks the necessary capacity to perform the contract on its own, and the agreement is fair and equitable and will be of substantial benefit to the 8(a) concern.

The joint venture entity must be a small business as determined by SBA. Under most circumstances for sole-source 8(a) contracts this determination usually involves affiliating the joint venture parties by combining their sales or employee numbers. Mentor-protégé joint ventures will be deemed small provided the protégé qualifies as small for the size standard corresponding to the NAICS code assigned to the procurement.

The joint venture parties enter into a written agreement which must be approved by SBA prior to award, if a sole-source contract, and prior to bid opening, if a competitive 8(a) contract. Among the requirements for 8(a) joint venturing:

- An 8(a) participant must be manager of the joint venture, and an employee of the managing venturer must serve as project manager.
- At least 51 percent of joint venture net profits must be distributed to the 8(a) participant(s) to the joint venture.
- Quarterly and project end financial statements must be submitted to SBA;
- The joint venture must perform the applicable percentage of work required, and the 8(a) partner(s) to the joint venture must perform a significant portion of the contract.

For additional information about these programs, contact your business opportunity specialist.

HUBZONE PROGRAM CHANGES REGULATIONS PUBLISHED JANUARY 18, 2001

Three significant changes took effect on February 20, 2001.

1. Businesses that are not manufacturers and do not supply the product of a HUBZone manufacturer may now apply for certification. This change allows HUBZone firms to supply the products of any business for sales up to \$25,000.00. For contracts in excess of that amount, a HUBZone contractor must still provide the product(s) of a HUBZone certified manufacturer unless HUBZone preferences are waived.
2. The definition of *principal place of business* has changed for service and construction firms. Principal place of business is defined as "where the greatest number of the concern's (permanent) employees at any one location perform their work". However, for concerns in service or construction, the determination of where the principal office is located excludes the concern's employees who perform the majority of their work at job-site locations to fulfill specific contract obligations.

(NOTE: The 35% HUBZone residency requirement uses a separate definition for "employees" and does not exclude permanent field employees)
3. HUBZone regulations previously prevented a company from becoming certified if it had any affiliates, unless the affiliates were woman-owned, HUBZone certified, or 8(a). The special affiliation limitations have been removed and standardized affiliation rules now apply.

In addition to the above changes, a new electronic application is available. Firms must register with PRO-Net and have available the PRO-Net User ID and Password to apply online. Data is extracted from PRO-Net into the application. In addition, firms now have the

ability to check the status of the application online.

You may visit the HUBZone website at <http://www.sba.gov/hubzone>. You may also obtain assistance by calling the Portland District Office at 503-326-2682.



UNDERSTANDING SDB AND HUBZone PRICE PREFERENCES

How do Small Disadvantaged Business (SDB) price preferences affect you as a bidder on government contracts? This is important to know, as every 8(a) firm has SDB certification. Unfortunately this is not such an easy question to answer as it can depend on the specific preference, what is being procured, what agency is soliciting the work, the estimated cost of the contract, who the other bidders are, and the method of procurement. We'll try to sort this out as clearly as possible.

Universally, price preferences do not come into play unless the contract is expected to exceed the simplified acquisition threshold of \$100,000 **and** the solicitation is open to all bidders through "full and open" competition. However, price preferences are not allowed for Architectural and Engineering (A&E) contracts.

SDB price preferences of up to 10% apply only in targeted industry groups where studies have shown that minority businesses are underrepresented. These targeted industry groups are sometimes referred to as benchmarked industries. The list of benchmarked industries is available on the web at <http://www.arnet.gov/references/sbdadjustments.htm>. Price preferences are applied to all non-SDB business bids. Certain agencies may obtain waivers from price preferences. Most notably, all agencies within the Department of Defense are currently waived as a result of meeting SDB contracting goals.

HUBZone price preferences of up to 10% apply

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to all industry groups except A&E services. There are no agency waivers for this preference. *The preference is applied only when a large business is the lowest priced bidder.*

SDB and HUBZone price preferences can be combined, when appropriate, resulting in preferences of up to 20%. According to a recent GAO decision (AMI Construction, B-286351, December 27, 2000) a contract should be awarded to the low bidder, after application of price preferences, even if the price is more than what is considered fair and reasonable, or the procurement must be canceled.

Price preferences represent an opportunity to level the playing field for SDB and HUBZone certified businesses in an otherwise fully open and competitive environment.



NEW 8(A) FIRMS

There has been a lot of activity in the Portland District Office 8(a) BD program portfolio since the beginning of Federal Fiscal Year 2001 (October 1, 2000.) We welcome the following new firms:

A.P. & Associates, Inc.
6715 NE 63rd St., #504
Vancouver, WA 98661-1980
(360) 891-2127
FAX: (360) 944-9152

Elizabeth Shigeta-Prior, President

Management consulting services, computer training, project management, change management, supervisory/leadership/management training, team building, communications, time management, goal setting, motivation.

Chapman Painting Company
78 NW Kearney
Bend, OR 97701
(541) 389-3957

FAX: (541) 330-5668

Roy M. Chapman, President

Painting contractor specializing in interior &

exterior work on new construction -- residential, commercial, multi-family structures, large and small jobs.

Consulting Economist Inc.
13715 SW Rawhide Ct.
Beaverton, OR 97008
(503) 524-5122
FAX: (503) 590-9347

Kenneth C. Boire, President

Economic consulting services specializing in water resource, flood control and navigation projects planning.

Design Construction NW, Inc.
1412 NE 143rd Ave.
Vancouver, WA 98684
(360) 944-6689
FAX: (360) 882-7170
Peter Umoh, President

Design-build services. Remodeling and renovation, new construction, tenant improvements, ADA upgrades and retrofits, architectural design and AutoCAD drafting, construction management.

Fremont Forest Systems, Inc.
3955 Independence Hwy.
Mailing Address: P.O. Box 339
Independence, OR 97351
(503) 606-0152
FAX: (503) 838-2676

Cristobal Lumbreras, President

Reforestation services including pre-commercial thinning, hand slash piling, transplanting, tree planting and tree thinning.

Grand Ronde Industrial Development, LLC
(Gridco)
25599 SW 95th Ave., Suite E
Wilsonville, OR 97070
(877) 358-0090
FAX: (503) 582-9331

David Harjo, Director of Management & Operations

General contracting, electrical contracting.

MentorBrokers, Inc.
9134 N. Willamette Blvd.

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Portland, OR 97203
(503) 240-5384

Fax: (503) 735-1058

Mozette A. Humphreys, President
Full service management consulting firm
specializing in business improvement,
management, and technical assistance.

NCQ Reforestation
410 W. Clark St.
Medford, OR 97501
(541) 779-6737

FAX: (541) 773-9765

Norberto Cuevas, Proprietor
Reforestation firm specializing in tree planting,
tree thinning, tubing, brushing.

Pro Landscape, Inc.
3045 SE 61st Ct.
Hillsboro, OR 97123
(503) 642-5696

FAX: (503) 649-4621

Manuel A. Castaneda, President
Landscaping firm specializing in landscape
construction, retaining walls, irrigation, slide
remediation, drainage, landscape maintenance,
excavation, tree planting and reforestation tree
planting, clearing, and piling.



FIRMS COMPLETING 8(a) PROGRAM TERM

The following firms completed their 8(a)
program terms since September 30, 2000. We
wish them well in their continuing business
development and remind them that the SBA
provides many other programs and services to
assist them:

Battan's Building Management & Construction,
Inc.

Camacho Group, Inc.

Mendycorp, Inc.

MRC Company

Spirit Communications, Inc.

Synergy Consulting, Inc.



8(a) FIRMS HONORED

A number of Portland District Office 8(a)
participants have been accorded recognition or
honors since October 1st:

Ebony Iron Works was awarded the
Northwestern Division Corps of Engineers
Construction Contractor of the Year Award for
2000 at a ceremony held on June 6, 2001 at the
Portland District offices. Brigadier General
Carl A. Strock personally presented the award to
owner, Edward Holmes. Ebony Iron Works had
previously won the Portland District Construction
Contractor of the Year award and went on to
compete with construction contractors, both
large and small, from the 14 state region for the
Northwest Division title. They will now be
competing with the seven other Division winners
for the National Corps of Engineers Construction
Contractor of the Year Award for 2000.

Design-A-Weld, Inc., Esau Williams, President,
was recognized at the 2001 Oregon Association
of Minority Entrepreneurs (OAME) Conference
Luncheon, May 3, 2001, as a recent graduate of
the OAME Incubation Program.

The Kent Corporation dba Harvest Pride,
Dennis Yeo, President, was honored with the U.
S. Department of Agriculture, Agricultural
Marketing Service's 2001 Small Disadvantaged
Business of the Year Award, at a presentation
ceremony in Seattle May 30th.

Fred Cooper Consulting Engineers, Inc.,
Fred Cooper, President, was a winner of a 2001
The Business Journal 100 Fastest Growing Private
Companies in Oregon Award, at a June 6th
presentation ceremony in Portland.

Congratulations All!!

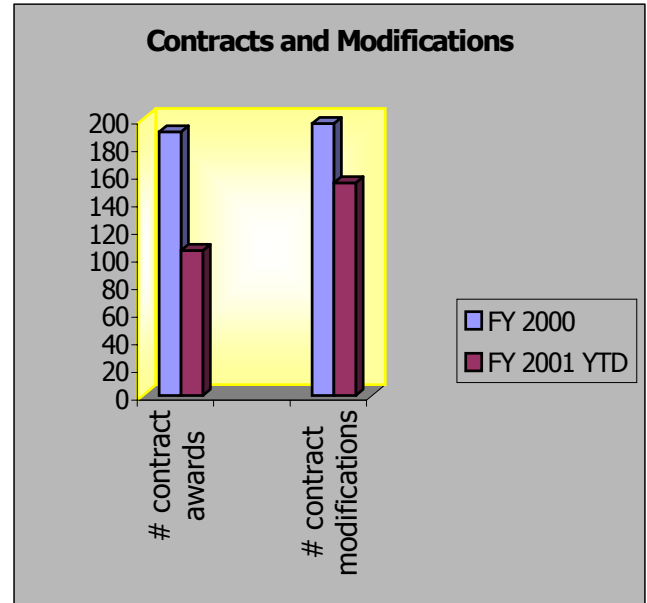


MINORITY ENTERPRISE DEVELOPMENT CONTRACTS AWARDED IN FY2001

SBA's 8(a) Business Development Program, providing assistance to small businesses owned by socially and economically disadvantaged individuals, awarded 105 contracts and 154 modifications assisting 34 businesses. For the nine month period ending June 30, 2001, the total contracting dollars to these 34 businesses was \$26,095,398.60. This represents an 82.5% increase for the same period last year.

We appreciate the support from the procuring agencies and look forward to a great fourth quarter.

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